

HUNGARIAN CULTURAL ADMINISTRATION

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1. The definition and the development of cultural administration

Culture has been present since ancient times. Even the caveman performed ritual practices or ceremonials which can be considered the culture of that certain period. It became more important after the foundation of monarchical states. In order to symbolize their power, rulers and dignitaries of church tried to have more and more outstanding monuments built. Pharaohs built pyramids thousands of years ago for the same reason. These artefacts and monuments of the past have become inestimably valuable finds of archaeology. Musicians, writers, painters and actors represented culture in ancient times as well. Architecture and art have been changing and developing through time and centuries, new trends have been born. A good number of cultural heritages remain still, in present days. The idea of presenting cultural values in a wider range occurred in the nineteenth century. The first libraries, museums and galleries were established by wealthy nobles. After the Second World War to familiarize the public with culture became the states responsibility and task. General education developed gradually. In its modern understanding cultural administration has a double functional purpose. On one hand it means to protect heritage of the past, which task is regulated by the protection of cultural heritage. Its second purpose is to present cultural goods, make them common property for the public, for which purpose are the different institutions of general education.

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Act CXL. of 1997 on museums, public libraries and general education was one of the outcomes of the change of regime. This act regulates all questions concerning general education in a modern way required by a constitutional state.

The act, which regulated the protection of historic monuments by the same principle, was also legislated in 1997. The importance of this act was that the protection of monuments was no longer handled as a part of the housing and construction administration as it used to be. However other areas of cultural goods were not regulated by any law.

The cultural administration as an independent sector arrived at its turning point, when in 1998 the Ministry of National Cultural Heritage was established. By this, cultural administration became an independent administrative department within public administration. However an overall regulated act concerning the protection of cultural goods was still three years ahead.¹

2. Protection of cultural heritage

2.1. General questions

The main provisions of current regulations on the protection of cultural goods are included in the Act LXIV. of 2001 on the protection of cultural heritage. This act handles cultural heritage as a unified category and its legal defence is based on unified regulations as well.² The regulation makes a difference between the definition of cultural heritage and cultural goods. Cultural heritage has a more extensive meaning which includes:

- archaeological artefacts and sources,
- historic monuments,
- other cultural goods.³

The following restrictions and regulations concerning the protection of cultural heritage apply to all:

- It is forbidden to destroy, fake or cause any kind of damage to cultural heritage.

¹ The development of cultural administration and its legal regulation are analysed in details in Berényi Sándor: A kulturális közigazgatás, Magyar közigazgatási jog, 1999, p. 210-249.

² See in details: Kiss Zoltán: Törvény a kulturális örökség védelméről. [2001. évi LXIV. tv.] Cég és Jog, 11th edition 2001, p. 16-25.

³ The definition of cultural heritage is analysed in: Sonkoly Gábor: A kulturális örökség fogalmának értelmezési és alkalmazási szintjei, Regio. Kisebbségi Szemle, 4th edition of 2000, p. 45-66.

- Elements of cultural heritage must be searched and found, listed and kept for the future generation.
- Protection of cultural heritage is everyone's obligation.

2.2. Archaeological heritage

Archaeological finds are the property of the state. Sources are under general protection. These are protected by the proposal of the National Office of Cultural Heritage. Some of these protected sources need to be listed under highly protected class or protected in a greater extent category.

Archaeological excavation can be performed only in possession of a permit for excavation by the Office. If possible, finds need to be preserved at the places they were found or placed in museums. The excavations are supervised by the Office, should it find any irregularity it can withdraw the permit.

2.3. Historic monuments

The protection of historic monuments is established when the Ministry following the proposal of the Office declares certain monuments protected in a decree. By ministerial decree the following sites are considered historic monuments:

- the Palóc Museum in Hollókő,
- or the big brick bridge of Hortobágy.

As far as possible the state should obtain all property rights of historic monuments. There are strict restrictions and conditions to the use of the monuments in order to prevent them from any damage caused by inappropriate use.

The act of heritage protection names and qualifies the different objects such as historic gardens, monumental sites and cemeteries like the famous cemetery of Kerepes.

Owners of the monuments are responsible for maintaining them, and obliged to do so. In case the owner is not known the Office takes charge in maintaining the monuments at the owner's expense.

3. Other cultural goods

The conceptual classes of cultural goods include the following items:

- formation and development of nature,
- important written, material, illustrated, voice recorded proves or artistic work referring to mankind or Hungarian nation or the history of Hungary.

The artistic work includes:

- of fine,
- applied,
- photographic, or
- constructive arts.

Cultural goods can only be taken out of the country – temporary or permanently – with the permission of the Office. Rather small range of cultural goods is allowed to cross the border without any kind of permit. There are only a few of them among those less than fifty years old, for example.

4. Protecting the different classes of cultural heritage

There are different regulations applying when movable and immovable objects are being declared protected.

The National Office of Cultural Heritage prepares the declaration of certain immovable goods of cultural heritage. Then by the proposal of the Office the mentioned goods such as archaeological sources and historic monuments are protected by the Minister in a decree.⁴

Meanwhile the movable cultural goods can be proposed for protection in writing at the Office. Then having an advisement in hand the Office can decide about the justification of the protection. Movable goods are protected by the special resolution of the Office in the capacity of administrative authority.⁵

Objects of architectural heritage can be protected by any local authority in a decree based on the local importance of the object. In this case we are talking about local protection. It has two different types: one of them is the local territorial protection, when the protection concerns a whole settlement or a certain region. The other type is the local individual protection, which refers to only certain historic monuments or buildings. Values under local protection need to be recorded and listed by the local authority.⁶

⁴ See detailed regulations on declaring of immovable cultural goods in Halmi Nándor: *Eljárási gondok a műemlékvédelem újraszabályozása után*, Magyar Közigazgatás, 2nd edition of 2002, p. 126-128.

⁵ A detailed regulation on declaring of cultural heritage protected is included in decree 3/2002 (II. 15.) of the Minister of National Cultural Heritage

⁶ See in details: Lőrinczné Szabó Tünde *A területrendezés és a műemlékvédelem*, Magyar Közigazgatás, 11th edition 2000, p. 678-680.

5. Legal regulations of general education

It is an important principle that every member of a community has the right to get to know the goods of cultural heritage and their importance. This is provided by the state through:

- museums,
- library services,
- education,
- general education,
- dissemination of general knowledge,
- and the media or press.

The right to the practice of general education is public interest. It is basically the local authority's responsibility to provide the conditions for general education. Institutions in the service of familiarization of cultural goods are the libraries, museums and archives.⁷

There are also other institutions for general education besides the above mentioned institutions, such as education centres, leisure, youth, child centres or folk centres.

6. Means of cultural administration

The first means is the study of effects for heritage protection which examines the effects for example construction has on cultural heritage.

The second one is the official authorization. For example in order to establish a museum, a ministerial authorization is needed.

The third means is the official order, by which the Office can order for example the renovation of any monuments which belongs to the protected cultural heritage for the purpose of the protection.

The next means is the obligation for sufferance. This means that the owner of the cultural heritage is bound to suffer the work ordered by the National Office of Cultural Heritage.

The fifth means is the heritage protection fine. All those are subjected to a heritage protection fine working without a permit or other than stated in the permit. Furthermore those, who damage, or destroy any element, which is part of the protected cultural heritage.

⁷ See legal regulations of archives in Hajdú Lajos: *A levéltárak és a közigazgatás, Magyar Közigazgatás*, 1st edition 1991, p. 254-261.

Records are considered official means as well. For example the Office is bound to register:

- archaeological sources,
- historic monuments,
- protected cultural goods, and
- permits for excavation.

All records are public and truly verify the authenticity of their content.

The last means is the official supervision performed by the authorities of architectural and historic monuments.

7. Organization for the protection of cultural heritage

There are also state institutions participating in cultural administration, such as the Parliament and the Government, while the Minister of National Cultural Heritage is the directing participant of the cultural sector. His responsibility is to supervise the protection of cultural heritage and to direct general education.⁸

The National Office of Cultural Heritage was established in October 2001 by a government order based on the related legal background⁹. These recent regulatory conceptions imply simplification and deregulation in order to build up a legal framework conformable to recent European trends. With the Act, statutory conditions for a transparent and predictable administrative and decision-making structure were created to meet the expectations concerning the greater efficiency and flexibility of the so-called “customer service model”. The Act embodies all three professional fields of movable and immovable cultural heritage: historic buildings, archaeology and movable cultural heritage. Consequently, there was a clear requirement for a specialist body to exercise legal authority over the full spectrum of heritage protection.

Within the new statutory agency formed in 2001 the former National Board for the Protection of Historic Monuments – responsible for historic buildings – was united with another organisation, the Cultural Heritage Directorate, which supervised archaeological sites and movable cultural heritage. Therefore the National Office of Cultural Heritage aims to represent an up-to-date, integrated heritage concept.

The National Office of Cultural Heritage is a governmental organisation under the professional supervision of the Ministry of Cultural Heritage and is

⁸ The Minister's responsibilities and duties are regulated by the governmental decree 161/1998 (IX. 30.)

⁹ Act LXIV of 2001, on the Protection of Cultural Heritage

lead by the Chairman who is appointed by the Minister of Cultural Heritage. The Chairman's work is supported by the Deputy-Chairman. According to legal regulations, the Office is the administrative authority in first instance of historic monuments, archaeological sites and movable cultural heritage.¹⁰ The Office is responsible for nearly 11 thousand listed historic sites, buildings, conservation areas and historic gardens all over Hungary, as well as for more than 100 thousand archaeological sites and 400 movable cultural goods in private ownership.

There are eight regional offices and one office for the capital: each has its own legal and conservation experts¹¹. These regional offices are the statutory authorities concerning movable cultural heritage as well as the architectural and archaeological heritage of the region.

It is the duty of the Hungarian Institution of Culture to analyze the work done in the different communities and settlements more over develop programs for the benefit of community education and support folk art.

The Minister's professional supervision work is done with the help of inspectorates such as:

- museological inspectorate,
- library inspectorate,
- inspectorate of archives, and
- inspectorate of general education.

Boards of advisors such as the National Board of Trustees of Libraries and the College of Archives also help the minister's work.

Based on regions and areas the duties of the local authorities are the protection of architectural and the natural environment and the support of general education. They are also bound to operate museums, libraries and archives as well as provide the conditions such as culture clubs for local education.

8. Regulations enforced by the European Union

Despite the fact, that the Union does not have a mutual cultural policy, the Treaties of the European Union include directives of the cultural responsibilities.

¹⁰ Detailed regulations concerning the organization of the Office is included in the governmental decree 190/2001. (X. 18.)

¹¹ In the fields of historic buildings and archaeological sites – movable cultural heritage supervision is centralised

It is the Maastricht Treaty¹² that first highlights the question concerning culture. Since its ratification it has been receiving the most importance in establishing cultural regulations. Its only disadvantage is that it does not have compelling legal commitment, as the Union only promotes co-operation in this field. Concerning cultural responsibilities the Union is in charge of making sure of the cooperation of the member states in the following areas:

- The care and protection of cultural heritage of European significance,
- Non-commercial cultural trade,
- and support of artistic and literary work.

In the view of protecting immovable cultural heritage, there are different means of incentive support, provided for the owners, in the member states. These immovable cultural monuments are also made sure of having a useful function in every day life.

The free movement of goods is the basis of the operation of a single market. However by several international regulations the Treaty of the European Union makes it possible to limit the free movement of certain goods such as artistic, historic or archaeological national values among the member states¹³.

With the establishment of the custom union each and every member state is to provide the control of the European Union outside borders. This means that leaving the European Union, cultural goods are required to enter a third country according to law¹⁴. That is why a decree was established in 1992 in which it is stated that cultural goods must have the proper and necessary permit allowing them to leave any member state of the European Union. This permit must be given by the country from which the work of art is taken regardless of which country it originates from.¹⁵ Some member states such as France and Italy in a mutual agreement both require a document attached to the permit which includes the legal state of the work of art in question and whether it can be freely circulated.

¹² Article 151(ex Article 128)

¹³ Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State

¹⁴ Council Regulation (EEC) No 3911/92 of 9 December 1992 on the export of cultural goods

¹⁵ The regulations of the decree on the permit for exporting cultural goods were adopted by ministerial decree of the Minister of National Cultural Heritage in 17/2001. (X. 18.)

One of the reports¹⁶ of European Committee points out that there has been a significant development in cultural administration in the member states.

At last for the successful improvement of cultural administration in Hungary it is necessary to adopt the principles other developed countries advocate on culture.

¹⁶ O'Connor, Raymond-Cenni, Gloria: Sharing information to protect cultural treasures. Final Report. Information on Transfer of Cultural Goods ITCG. Communication between Member States for protection of national treasures against illegal traffic. Current situation in export licensing and restitution of illegally removed objects, and development of a pilot service. An IDA project. Telemetries between Administrations. European Commission DG Enterprise with DG Education and Culture, 2000.